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Daniel Opperman

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**Please find below and/or attached an Office communication concerning this application or proceeding.**

The time period for reply, if any, is set in the attached communication.



### DETAILED ACTION

1. The following is a **Final office action** on merits in response to a communication received on **10/27/09**.

#### *Acknowledgement*

2. Claim **Status**:

- ❖ **Newly added claims: 40-45**
- ❖ **Amended claims: 20-21 and 38-39**
- ❖ **Pending claims : 20-23 and 38-45**

#### *Claim Rejections - 35 USC § 103*

3. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

4. **Claims 20–23, 38-45** are rejected under 35 U.S.C. 103 (a) as being unpatentable over **Himmelstein** (2002/0038278) in views of **Russo** (2004/068458).

**Claims 1-19(Cancelled)**

**As per claims 20, Himmelstein** discloses a processor-implemented method comprising:

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receiving, via Processor, a user defined section of a first order destination alternative from an order destination menu, the first order destination alternative representing a first order destination;

displaying via the processor on a display screen of a computer a first order type menu listing only order type alternatives that represent order types supported by the first order destination (**Fig.1**; via display screen of computers and **para 0050-052**; via barter website **106** or pull down menus **507** and also **para 0147**; via inherently destination at NYSE and the NASDAQ market);

[receiving via the processor a user defined selection of a second order destination alternative from said order destination menu, the second order destination alternative representing a second order destination; determining via the processor, based at least in part o the second order destination alternative selected by the user, at least one order type alternative associated with the second order destination, the at least one order type alternative being different from the order type alternatives listed in the first order type menu and to be displayed as part of a second order type menu].

displaying via the processor on said display screen of said computer the second order type menu that is different from the first order type menu and reflecting different order types supported by the second order destination associated with the second order destination alternative (**para 0052**, lines 12; via an array of pull down menus **507** for selection of second order type menu different from first order type);

[wherein:

the first order destination and the second order destination are at least one of a securities exchange, a market maker, an ECN, and a trading market place; and order type alternatives included in both said first and second order type menus include a market order type and a limit order type].

**Himmelstein** did not explicitly disclose the step of receiving via the processor a user defined selection of a second order destination alternative from said order destination menu, the second order destination alternative representing a second order destination; determining via the processor, based at least in part of the second order destination alternative selected by the user, at least one order type alternative associated with the second order destination, the at least one order type alternative being different from the order type alternatives listed in the first order type menu and to be displayed as part of a second order type menu.

However, **Russo** being in the same field of invention discloses the steps of receiving via the processor a user defined selection of a second order destination alternative from said order destination menu, the second order destination alternative representing a second order destination; determining via the processor, based at least in part of the second order destination alternative selected by the user, at least one order type alternative associated with the second order destination, the at least one order type alternative being different from the order type alternatives listed in the first order type menu and to be displayed as part of a second order type menu (**para 0229-0242**; via Three options and Four mode of operation with **Machine 1**, specifically in **para 0239-0241**; via order destinations [NYSE, NASDAQ and AMEX] and user of the

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machine with options to add NYSE Stock Symbol or change destinations and alternative types of order by setting **limit order** or trade).

Therefore, it would have been obvious to an ordinary skill in the art at the time of invention was made to modify the disclosure of *Himmelstein* and include the features mentioned by *Russo* to facilitate a virtual stock market that fits in the 'user' of the machine's pocket [i.e. the stock market in the pocket] with displays depicting around the clock, live, real time world wide economic data onto the viewing screen [window **4G**] to easy play with Menus for Symbol, destination and order types.

*Himmelstein* did not explicitly disclose further that the first order destination and the second order destination are at least one of a securities exchange, a market maker, an ECN, and a trading market place; and order type alternatives included in both said first and second order type menus include a market order type and a limit order type.

However, *Russo* being in the same field of invention discloses that the first order destination and the second order destination are at least one of a securities exchange, a market maker, an ECN, and a trading market place; and order type alternatives included in both said first and second order type menus include a market order type and a limit order type. (**Abstract** and **Figs 1-108** , para **0001-0003** - via viewing user's screen window of the machine's interface; para **0010** - via a logic field- provision of two choices; para **0240**-via choosing another symbol of exchange [**Fig-057**] as destination ; para **0233** and **0241** – via a limit order trade [type] and trade per share price [market order type] respectively).

Therefore, it would have been obvious to an ordinary skill in the art at the time of invention was made to modify the disclosure of **Himmelstein** and include the features mentioned by **Russo** to facilitate the user of the **machine-1** Dissemination Center then immediately signals ... search engine to trade ...The user ... of **NYSE** listed **CMGI** stock ... wait for the results (**para-0234**)

**As per claim 21, Himmelstein** discloses a processor-implemented method comprising:

receiving, via Processor, a user defined section of a first order financial instrument trading symbol from a financial instrument trading symbol menu, the first financial instrument trading symbol representing a first financial instrument; displaying via the processor on a display screen of a computer a first order destination menu listing only order destination alternatives that correspond to order destinations that support trading in the first financial instrument that correspond to the first financial instrument trading symbol (Fig.1 and para 0050-0052; via barter website 106 or pull down menus 507 and also para 00147 inherently destination at NYSE and the NASDAQ market. First instrument trading symbol Aetna Stock-AET at line 21 of para 0041);

[receiving via the processor a user defined selection of a second financial instrument trading symbol from said first financial trading symbol menu, the second financial instrument trading symbol representing the second financial instrument ;

determining via the processor, based at least in part on the second financial instrument trading symbol selected by the user at least one order destination alternatives associated with the second financial instrument, the at least one order

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destination alternative being different from the order destinations listed in the first order destination menu displayed as part of a second order destination menu]; and

displaying via the processor on said display screen of said computer the second order destination menu that is different from the first order type menu, the second order destination menu being different from the first order destination men and reflecting different order destination supported by the second financial instrument associated by the second financial instrument trading symbol (**para 0052**, lines 12; via an array of pull down menus **507** for selection of second order type menu different from first type. Second Instrument trading Symbol - the DuPont Option **DD** also in **Fig.5A**);

[wherein: at least one of the order destination alternatives listed by the first order destination menu is different from each order destination alternative listed by the second order destination menu; and each of the order destinations is selected from at least one of securities, a market maker, an ECN and a trading market place].

**Himmelstein** did not explicitly disclose the step of receiving via the processor a user defined selection of a second financial instrument trading symbol from said first financial trading symbol menu, the second financial instrument trading symbol representing the second financial instrument; determining via the processor, based at least in part on the second financial instrument trading symbol selected by the user at least one order destination alternatives associated with the second financial instrument, the at least one order destination alternative being different from the order destinations listed in the first order destination menu displayed as part of a second order destination menu.



However, **Russo** being in the same field of invention discloses the steps of receiving via the processor a user defined selection of a second financial instrument trading symbol from said first financial trading symbol menu, the second financial instrument trading symbol representing the second financial instrument; determining via the processor, based at least in part on the second financial instrument trading symbol selected by the user at least one order destination alternatives associated with the second financial instrument, the at least one order destination alternative being different from the order destinations listed in the first order destination menu displayed as part of a second order destination menu (**para 0229-0242**; via Three option and Four mod of operation with **Machine 1**, specifically in **para 0239-0241**; via order destinations [NYSE, NASDAQ and AMEX] and user of the machine with options to add NYSE Stock Symbol or change destination and alternative types of order by setting limit order or trade).

Therefore, it would have been obvious to an ordinary skill in the art at the time of invention was made to modify the disclosure of **Himmelstein** and include the features mentioned by **Russo** to facilitate a virtual stock market that fits in the 'user' of the machine's pocket [i.e. the stock market in the pocket] with displays depicting around the clock, live, real time world wide economic data onto the viewing screen [window 4G] to easy play with Menus for Symbol, destination or order types.

**Himmelstein** did not explicitly disclose that at least one of the order destination alternatives listed by the first order destination menu is different from each order destination alternative listed by the second order destination menu; and each of the

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order destinations is selected from at least one of securities, a market maker, an ECN and a trading market place.

However, **Russo** being in the same field of invention discloses that at least one of the order destination alternatives listed by the first order destination menu is different from each order destination alternative listed by the second order destination menu; and each of the order destinations is selected from at least one of a securities, a market maker, an ECN and a trading market place (**Abstract** and **Figs 1-108** , para **0001-0003** - via viewing screen window with user's of the machine's interface; para **0010** - via a logic field- provision of two choices; para **0240**-via choosing another symbol of exchange [**Fig-057**] as destination ; para **0233** and **0241** – via a limit order trade [type] and trade per share price [market order type] respectively).

Therefore, it would have been obvious to an ordinary skill in the art at the time of invention was made to modify the disclosure of **Himmelstein** and to include the features mentioned by **Russo** to facilitate the user of the **machine-1** Dissemination Center then immediately signals ...search engine to Trade ... The user ... of **NYSE** listed **CMGI** stock ... wait for the results (para-**0234**).

**As per claim 22, Himmelstein** discloses that the first financial instrument trading symbol represents a first common stock (para **0041**, line 21; via **Aetna** Stock symbol-**AET**, **234**); and the second financial instrument trading symbol represents a second common stock (para **0041**, line 19; via **DuPont** Stock-**DD**, **228**).

**As per claim 23, Himmelstein** discloses that the first financial instrument trading symbol represents a common stock (para **0041** line 21; via **Aetna** Stock symbol-**AET**,

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**234**); and the second financial instrument trading symbol represents an option (**para 0051**, line 12; via the **DuPont Option-DD**).

**Claims 24-37 (canceled)**

**As per claim 38, Himmelstein** discloses a processor-readable medium storing processor-issuable instructions to:

receiving, via Processor, a user defined selection of a first order destination alternative from an order destination menu, the first order destination alternative representing a first order destination; display via the processor on a display screen of a computer a first order type menu listing only order type alternatives that represent order types supported by the first order destination (**Fig.1**; via display screen of computers and **para 0050-052**; via barter website **106** or pull down menus **507** and also **para 0147**; via inherently destination at NYSE and the NASDAQ market);

[receive via the processor a user defined selection of a second order destination alternative from said order destination menu, the second order destination alternative representing a second order destination; determine via the processor, based at least in part o the second order destination alternative selected by the user, at least one order type alternative associated with the second order de3stination, the at least one order type alternative being different from the order type alternatives listed in the first order type menu and to be displayed as part of a second order type menu]; and

displaying via the processor on said display screen of said computer the second order type menu that is different from the first order type menu and reflecting different order types supported by the second order destination associated with the second order

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destination alternative (**para 0052**, lines 12; via an array of pull down menus **507** for selection of second order type menu different from first order type);

[wherein: the first order destination and the second order destination are at least one of a securities exchange, a market maker, an ECN, and a trading market place; and

order type alternatives included in both said and second order type menus include a market order type and a limit order type].

**Himmelstein** did not explicitly disclose to receive via the processor a user defined selection of a second order destination alternative from said order destination menu, the second order destination alternative representing a second order destination; determine via the processor, based at least in part o the second order destination alternative selected by the user, at least one order type alternative associated with the second order de3stination, the at least one order type alternative being different from the order type alternatives listed in the first order type menu and to be displayed as part of a second order type menu.

However, **Russo** being in the same field of invention discloses to receive via the processor a user defined selection of a second order destination alternative from said order destination menu, the second order destination alternative representing a second order destination; determine via the processor, based at least in part o the second order destination alternative selected by the user, at least one order type alternative associated with the second order de3stination, the at least one order type alternative being different from the order type alternatives listed in the first order type menu and to be displayed as part of a second order type menu (**para 0229-0242**; via Three options

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and Four mode of operation with **Machine 1**, specifically in **para 0239-0241**; via order destinations [NYSE, NASDAQ and AMEX] and user of the machine with options to add NYSE with Stock Symbol or change destination and alternative types of order by setting limit order or trade).

Therefore, it would have been obvious to an ordinary skill in the art at the time of invention was made to modify the disclosure of **Himmelstein** and include the features mentioned by **Russo** to facilitate a virtual stock market that fits in the 'user' of the machine's pocket [i.e. the stock market in the pocket] with displays depicting around the clock, live, real time world wide economic data onto the viewing screen [window 4G] to easy play with Menus for Symbol, destination or order types.

**Himmelstein** fails explicitly to disclose that the first order destination and the second order destination are at least one of a securities exchange, a market maker, an ECN, and a trading market place; and order type alternatives included in both said and second order type menus include a market order type and a limit order type.

However, **Russo** being in the same field of invention discloses that the first order destination and the second order destination are at least one of a securities exchange, a market maker, an ECN, and a trading market place; and order type alternatives included in both said and second order type menus include a market order type and a limit order type (see **Abstract** and **Figs. 1-108** , para **0001-0003** - via viewing screen window with user's of the machine's interface; para **0010** - via a logic field- provision of two choices; para **0240**-via choosing another symbol of exchange [**Fig.-057**] as

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destination ; **para 0233** and **0241** – via a limit order trade [type] and trade per share price [market order type] respectively).

Therefore, it would have been obvious to an ordinary skill in the art at the time of invention was made to modify the disclosure of *Himmelstein* and include the features mentioned by *Russo* to facilitate the user of the **machine-1** Dissemination Center then immediately signals ... search engine to Trade ... The user ... of **NYSE** listed **CMGI** stock ... wait for the results (**para-0234**)

**As per claim 39**, *Himmelstein* discloses a processor-readable medium storing processor-issuable instructions to:

receiving, via Processor, a user defined selection of a first order financial instrument trading symbol from a financial instrument trading symbol menu, the first financial instrument trading symbol representing a first financial instrument; displaying via the processor on a display screen of a computer a first order destination menu listing only order destination alternatives that correspond to order destinations that support trading in the first financial instrument that correspond to the first financial instrument trading symbol (Fig.1 and para 0050-0052; via barter website 106 or pull down menus 507 and also para 00147 inherently destination at NYSE and the NASDAQ market. First instrument trading symbol **Aetna** Stock-**AET** at line 21 of para 0041);

[receive via the processor a user defined selection of a second financial instrument trading symbol from said first financial trading symbol menu, the second financial instrument trading symbol representing the second financial instrument ; determine via the processor, based at least in part on the second financial instrument

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trading symbol selected by the user at least one order destination alternatives associated with the second financial instrument, the at least one order destination alternative being different from the order destinations listed in the first order destination menu displayed as part of a second order destination menu]; and

displaying via the processor on said display screen of said computer the second order destination menu that is different from the first order type menu, the second order destination menu being different from the first order destination menu and reflecting different order destination supported by the second financial instrument associated by the second financial instrument trading symbol (para 0052, lines 12; via an array of pull down menus 507 for selection of second order type menu different from first type. Second Instrument trading Symbol - the DuPont Option DD also in Fig.5A); and

[wherein: at least one of the order destination alternatives listed by the first order destination menu is different from each order destination alternative listed by the second order destination menu; and each of the order destinations is selected from at least one of securities, a market maker, an ECN and a trading market place].

**Himmelstein** did not explicitly disclose the step of receive via the processor a user defined selection of a second financial instrument trading symbol from said first financial trading symbol menu, the second financial instrument trading symbol representing the second financial instrument ; determine via the processor, based at least in part on the second financial instrument trading symbol selected by the user at least one order destination alternatives associated with the second financial instrument, the at least one order destination alternative being different from the order destinations

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listed in the first order destination menu displayed as part of a second order destination menu.

However, **Russo** being in the same field of invention discloses to receive via the processor a user defined selection of a second financial instrument trading symbol from said first financial trading symbol menu, the second financial instrument trading symbol representing the second financial instrument; determine via the processor, based at least in part on the second financial instrument trading symbol selected by the user at least one order destination alternatives associated with the second financial instrument, the at least one order destination alternative being different from the order destinations listed in the first order destination menu displayed as part of a second order destination menu (**para 0229-0242**; via Three options and Four mode of operation with **Machine 1**, specifically in **para 0239-0241**; via order destinations [NYSE, NASDAQ or AMEX] and user of the machine with options to add NYSE with Stock Symbol or change destination and alternative types of order by setting limit order or trade).

Therefore, it would have been obvious to an ordinary skill in the art at the time of invention was made to modify the disclosure of **Himmelstein** and include the features mentioned by **Russo** to facilitate a virtual stock market that fits in the 'user' of the machine's pocket [i.e. the stock market in the pocket] with displays depicting around the clock, live, real time world wide economic data onto the viewing screen [window **4G**] to easy play with Menus for Symbol, destination or order types.

**Himmelstein** did not explicitly disclose that at least one of the order destination alternatives listed by the first order destination menu is different from each



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order destination alternative listed by the second order destination menu; and each of the order destinations is selected from at least one of securities, a market maker, an ECN and a trading market place.

However, **Russo** being in the same field of invention discloses that at least one of the order destination alternatives listed by the first order destination menu is different from each order destination alternative listed by the second order destination menu; and each of the order destinations is selected from at least one of a securities, a market maker, an ECN and a trading market place (**Abstract** and **Figs 1-108** , para **0001-0003** - via viewing screen window with user's of the machine's interface; para **0010** - via a logic field- provision of two choices; para **0240**-via choosing another symbol of exchange [**Fig-057**] as destination ; para **0233** and **0241** – via a limit order trade [type] and trade per share price [market order type] respectively).

Therefore, it would have been obvious to an ordinary skill in the art at the time of invention was made to modify the disclosure of **Himmelstein** and to include the features mentioned by **Russo** to facilitate the user of the **machine-1** Dissemination Center then immediately signals ...search engine to trade ... The user ... of **NYSE** listed **CMGI** stock ... wait for the results (para-0234).

As per claims 40-41(new), **Himmelstein** discloses the method of claim 20, wherein the order destination menu and the first order type menu are adjacent to each other on the display screen, wherein the order destination menu, the first order type menu and second order type menu are pull down menus (**Fig. 5A-D**; via also pull down Menus **507**)

**As per claim 42 (new), Himmelstein** discloses the method of claim 20, further comprising allowing a user to select an action from a set of actions including:

(a) enter order; (b) enter ticket; (c) cancel order; (d) update order; and (e) reload order (para 0109; via the system is programmed .. accept, modify or reject the offer)

**As per claim 43 (new), Himmelstein** discloses the method of claim 21, further comprising displaying financial instrument trading information related to at least one of the first and second financial trading symbols, the instrument trading information concerning financial instrument trading orders (para 0044; via Microsoft stock symbol MSFT)

**As per claims 44-45 (new), Himmelstein** discloses the method of claim 43, wherein the financial instrument trading orders include at least one order to buy or sell a common stock, and the displayed financial instrument trading information includes respective quotations for the first or second financial instrument at a plurality of order destinations (para 0027+; website 102).

### ***Response to Arguments***

5. Applicant's **arguments** filed on 5/14/10 have been fully considered but they are not persuasive.

In the Remarks Applicant **argues** in substance that:

**Russo** (Remark page 14, para 2] fails to discuss or render obvious the claimed elements recited in amended independent claim 20.

In response:

**The Examiner** respectfully disagrees with applicant's assertion. The Examiner respectfully noted again that prior art reference **Russo** teaches in (para 0229-0242; via Three options and Four mode of operation with **Machine 1**, specifically in para 0239-0241; via order destinations [NYSE, NASDAQ and AMEX] and user of the machine with options to add [or delete implied a user defined selection] NYSE with Stock Symbol or change destinations [implied with menu] and alternative order types by setting limit order or trade [implied market order].

### ***Conclusion***

6. **THIS ACTION IS MADE FINAL.** Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.

7. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure.

**Gilbert et al** (2003/0154152) discloses for quoting a two sided market.

8. Any inquiry concerning this communication or earlier communications from the examiner should be directed to HATEM ALI whose telephone number is (571)270-3021 and FAX (571)-270-2041[Cc to Examiner]. The examiner can normally be reached on 8.00 to 6.30.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, ALEXANDER KALINOWSKI can be reached on 571-272-6771. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

HATEM ALI

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Examiner  
Art Unit 3691

/Hani M. Kazimi/  
Primary Examiner, Art Unit 3691